

DEC 20 1985

MEMORANDUM FOR: Deputy Director of Central Intelligence

VIA: Executive Director
Deputy Director for Administration
Director of Finance
General Counsel

FROM: Robert W. Magee
Director of Personnel

SUBJECT: Reform of Leave Policy to Accommodate Care for Sick Relatives

85-4309/3

20-3

1. Action Requested: Your approval of either of the alternative recommendations in paragraph 4.

2. Background: As part of our continuing effort to modify our personnel management system so that it accommodates our modern work force and its new problems, we have identified certain policies which are a continuing source of irritation and misunderstanding among our employees. One such policy is that which denies the use of sick leave to care for sick children and seriously ill relatives, even in cases in which the employee has exhausted his or her annual leave and must go on leave without pay (LWOP). We have disapproved such use of sick leave many times based on the clearly stated intent of the benefit which is to provide paid leave for employees who are themselves incapacitated for duty due to illness or injury, or, under certain circumstances, required to care for a family member who has a contagious disease. Our policy in this regard is in accordance with the rules other Federal agencies must follow under the generally applicable Government-wide law in Title 5 of the U.S. Code.

3. Discussion: At the time this sick leave legislation was drafted, our society consisted mainly of traditional families in which the wife was at home and available to care for sick children and other relatives. The composition of the work force has changed and many wives now work. More to the point, in many cases the working woman is the head of household and there is no one else available to care for sick children. Extended families are rare and it often falls to one sibling to care for a dying relative. Despite these changed circumstances, the old restrictions on the use of sick leave remain. Employees now use annual leave and can be forced into a leave without pay circumstance to deal with serious family illnesses.

Based on contacts with the Office of Personnel Management (OPM), we are aware that there is an ongoing review of the Federal leave system. Early indications are that OPM will lean in the direction of making sick leave use more restrictive including elimination of sick leave use even to care for family members with contagious diseases. The OPM rationale is that this provision was intended to cover illness requiring quarantine under appropriate health regulations, which is no longer a major problem in the United States.

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Despite the OPM initiative, we believe the more progressive trend is to demonstrate greater tangible recognition of the changing work force and particularly the significant increase in working wives. Establishment of work place day care centers by both private industry and government establishments and innovative work schedules are examples of employer recognition of this changing work force and its needs.

In light of the OPM trend towards curtailing even the current restrictive policy on employee use of sick leave to care for relatives, and the current political climate, it does not seem feasible or prudent simply to buck the tide and directly authorize Agency employees--even under carefully crafted controls--to utilize their sick leave to care for family members. This is not to say, however, that no remedial steps can be taken. In particular, the following measures could provide some relief in this area and enable employees to care for ailing children, or seriously ill or dying immediate relatives other than children, without having to enter LWOP status:

a. Change current Agency policy and regulations so as to give Agency managers discretion to permit employees in such circumstances, who have exhausted all annual leave, to be advanced more annual leave than they will accrue by the end of the leave year, and allow them to pay back the advance gradually, over a period of years or their entire period of service with the Agency. The borrowable amount of annual leave either could be limited to the current 240/360 hour annual carryover ceilings or to whatever figure those ceilings may be increased by the Agency, or not be limited at all. We believe the best approach in this regard would be to permit borrowing of annual leave without any limitation by the annual carryover ceilings and without requiring a payback by the employee at the end of the leave year in which the borrowing occurs, instead allowing the employee to make such payback--by offset against subsequently earned annual leave--within four years from the end of the leave year in which annual leave was advanced. At the end of that period, or at time of separation if sooner, payback in full of any unliquidated advanced leave balance would be required.

b. Revise Agency policy and regulations to allow each employee who has exhausted all of his or her annual leave, and needs to take time off to care for a sick child or a seriously ill or dying family member, to be granted up to 80 hours of excused absence annually for that purpose.

Under either of these options, the benefits would be available in care-for-relative cases subject to the following conditions:

(i) The relative for whom the employee must provide care is his or her sick child (including an adopted or stepchild or legal ward), or seriously ill or dying spouse, parent

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(including an adoptive or stepparent or former legal guardian during the employee's minority), or sibling (including a step-sibling, a sibling of the half blood, or sibling by adoption).

(ii) The employee certifies that it is essential that he or she provide the care to the child or family member.

(iii) For any absence of over three consecutive work days, the employee provides certification, such as a physician's statement, that the relative's illness is of such a nature as to have required such absence, with this certification to be reviewed and validated by OMS.

(iv) Approval for advancing annual leave or granting administrative or nondiscretionary personal leave in these situations would require a request from the employee certifying that he or she has no remaining annual leave, and explaining specifically the necessity that he or she provide the care, with such explanation supported by a physician's statement describing the relative's medical problem, the need for care, and the estimated period for which such care will be required.

Requests would be reviewed and approved or disapproved on a case-by-case basis by the Director of Personnel, with approval to require also the concurrence of the appropriate Deputy Director or, for the DCI area, the Executive Director.

Some additional costs could be incurred in this program, since there could be some loss in productivity depending on the number of employees faced with such situations. We believe that this will be relatively minor, however, since the number of employees required to take time off to provide care for dependents should not change measurably from those who are now required to take leave.

While it is within the authority of the DCI to change our policy without approval of our oversight committees, I believe we should notify them of our intent should you approve any of the above policy changes.

4. Recommendation: That Agency policy be changed as noted in either (a) or (b) in paragraph 3 above.

Robert W. Magee

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CONCUR:

STAT

18 NOV 1985

Date

3 Jan 86

Date

12/24/85

Date

1/27/86

Date

Executive Director

Proposal in Paragraph 3a
APPROVED:

Paragraph 3b

STAT

Deputy Director of Central Intelligence

Date

1/24/86

* See Attached Memo

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